

PATENT

U.S. Patent Application Serial No. 10/023,297

Attorney Docket No. CDR01004

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REMARKS

The Office Action states that claims 1-44 and 85 (Group I) are drawn to a method for capturing call event data in a telecommunications network, classified in class 379, subclass 88.22; claims 45-59 (Group II) are drawn to an interface for generating a file in XML, classified in class 709, subclass 230; claims 60-72 (Group III) are drawn to a communications network for establishing a communications session, classified in class 709, subclass 227; and claims 73-84 (Group IV) are drawn to a data structure formatted as an XML document file, classified in class 707, subclass 100. In support of this restriction requirement, the Examiner asserts that the inventions of Groups I-IV are related as subcombinations disclosed as usable together in a single combination. In support of the restriction requirement, the Examiner further asserts that the subcombinations are separately usable since "inventions I, II, III and IV have separate utility such as recording call events in a data structure of format other than XML and creating XML file for recording files other than call events." Applicant respectfully traverses the restriction requirement and submits that the Examiner has not provided sufficient examples of the distinctness of the inventions of Groups I, II, III, and IV.

Under M.P.E.P. § 806.05(d), "two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually distinct from each other." However, as further set forth in M.P.E.P. § 806.05(d), to demonstrate that the subcombinations are separately usable, "[t]he examiner must show, by way of example, that one of the subcombinations has utility *other than in*

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the disclosed combination" (emphasis added). The burden is on the Examiner to provide such an example. See M.P.E.P. § 806.05(d). Applicant respectfully submits that the Examiner has not satisfied this burden.

In support of the restriction requirement, the Examiner alleges that "inventions I, II, III and IV have separate utility such as recording call events in a data structure or format other than XML and creating XML file for recording files other than call events." The Examiner, thus, has not provided an example that any of the subcombinations identified by Groups I, II, III, or IV have utility other than in the combination disclosed in Applicant's specification, as required for demonstrating distinctness under M.P.E.P. § 806.05(d). Instead, the Examiner makes a general, broad allegation that separate utility exists for Groups I, II, III, and IV.

Since the Examiner has not demonstrated one-way distinctness, Applicant respectfully requests that the restriction requirement be withdrawn. If the Examiner persists in maintaining the restriction requirement, Applicant elects claims 1-44 and 85 of Group I with traverse.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 13-2491 and please credit any excess fees to such deposit account.

Respectfully submitted,

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